

GAHC040003852024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : Crl.Petn./37/2024

Techi Pana and Anr
Son of Shri Techhi Mama, a permanent resident of Palin,
PO and PS Palin, District Kra Daadi,
Arunachal Pradesh

2: Nabam Anu
D/o Shri Nabam Jardung
permanent resident of Nakar Village
PO and PS Sagalee Papumpare District Arunachal Pradesh

VERSUS

The State of AP
represented through the PP of AP

Advocate for the Petitioner : Gimi Tarak

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 21-03-2024

Heard Mr. G. Tarak, learned counsel for the petitioners. Also heard Ms. T. Jini, learned Addl. Public Prosecutor.

2. This is an application jointly filed by the petitioners under Section 482 of

the Code of Criminal Procedure, 1973, praying for quashing of F.I.R. dated 12.09.2023, being Itanagar Woman P.S. Case No. 90/2023, registered under Sections 354/354B/326/ 447/448/506 of the Indian Penal Code, 1860 and Charge-Sheet No. 154/2023, under Sections 354B/447/506/323 of the Indian Penal Code, 1860 and consequential criminal proceedings pending before the JMFC, Yupia.

3. The petitioner No. 1 is the accused and the petitioner No. 2 is the informant/victim.

4. The prosecution case, in brief, is that on 13.09.2023, an F.I.R. was lodged by Ms. Nabam Anu, petitioner No. 2 herein, alleging that on 12.09.2023, at about 12.30 hours, one Shri Techhi Pana, petitioner No. 1 herein, forcefully entered into her rented house and touched her body inappropriately and tried to remove her clothes. Thereafter, accused/petitioner No. 1 took a dao and threatened to kill her and upon shouting for help, he broke a glass and stabbed her with it on her face and thereby caused injury. The accused/petitioner No. 1 also physically assaulted the roommates of the victim/petitioner No. 2 while they intervened. On the receipt of the said F.I.R., the Officer-In-Charge, Itanagar Women Police Station registered a case, being Itanagar Woman P.S. Case No. 90/2023, registered under Sections 354/354B/326/447/448/506 of the Indian Penal Code, 1860 and after completion of investigation, the I.O. laid Charge-Sheet No. 154/2023, under Sections 354B/447/506/323 of the Indian Penal Code, 1860.

5. It is the contention of the petitioners that both of them were in live-in relationship, but due to some misunderstanding, they had a quarrel on 12.09.2023 and during scuffle, the petitioner No. 1 caused some cut injuries on the petitioner No.2 and for which, the petitioner No. 2 lodged an F.I.R. before

the Officer-In-Charge, Itanagar Women Police Station, which was registered as Itanagar Woman P.S. Case No.90/2023, under Sections 354/354B/326/447/448/506 of the Indian Penal Code, 1860 and subsequently, the petitioner No. 1 was arrested on 13.09.2023. Thereafter, the I.O., on completion of the investigation, filed Charge-Sheet on 09.12.2023, vide Charge Sheet No.154/2023, under Section 354B/447/506/323 of the Indian Penal Code, 1860 which is pending trial before the Court of learned Judicial Magistrate First Class, Yupia. However, in the meantime, both the petitioners, on the intervention of their parents and relatives, have mutually settled the dispute by executing a Deed of Mutual Settlement on 10.02.2024. Hence, the present petition.

6. Mr. G. Tarak, learned counsel for the petitioners, submits that the dispute has arisen out of live-in-relationship between the petitioners and they have settled their differences amicably and entered into settlement deed on 10.02.2024. Accordingly, he submits that as the matter has already been amicably settled between the parties, no fruitful purpose would be served even if the proceeding is allowed to be continued and the chance of conviction is also very remote and bleak. Further, the petitioners are living peacefully and if the proceeding is allowed to be continued, it will be an abuse of the process of the Court. Therefore, Mr. Tarak submits that may quash the F.I.R. and Charge-Sheet and consequential criminal proceeding pending before the learned JMFC, Yupia.

7. Ms. T. Jini, learned Additional Public Prosecutor, submits that since both the parties have resolved their dispute amicably and the entire dispute arose only due to misunderstanding in their love affairs as both the petitioners are boyfriend and girlfriend and they are no longer willing to proceed with the case,

the State has no objection in the event this petition is allowed.

8. Due consideration has been extended to the submissions of learned counsel for the parties and also perused the materials available on record.

9. It is seen that admittedly both the petitioners are boyfriend and girlfriend and were in live-in-relationship. The F.I.R. was lodged by petitioner No. 2 against the petitioner No. 1. It transpires that they have resolved their dispute amicably by executing a deed of mutual settlement in presence of their family members and they are now living peacefully without any differences.

10. Considering that the petitioners are boyfriend and girlfriend and they have settled their dispute by executing a Deed of Mutual Settlement on 10.02.2024, this Court is of the considered view that the dispute being pre-dominantly private in nature, particularly arisen out of love relationship, the continuance of the criminal proceedings, in the present case would be an abuse of the process of law. Since the petitioner Nos. 1 & 2, along with their family members, have decided to resolved the entire dispute between themselves and now living peacefully, in the considered view of this Court, the chances of conviction are remote and bleak in the present case.

11. In the case of **State of Madhya Pradesh vs. Laxmi Narayan**, reported in **2019 (5) SCC 688**, the Hon'ble Apex Court has held, which is reproduced here-in-below:

“15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4. Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under [Section 307 IPC](#) and/or the [Arms Act](#) etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of [Section 307 IPC](#) in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307 IPC](#) is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under [Section 307 IPC](#). For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of [Narinder Singh](#) (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5. While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

12. In the light of above and the observations and law laid down by the Hon'ble Supreme Court and considering the fact that both the petitioners have amicably settled their dispute and decided to maintain cordial relationship between themselves, I am of the considered view that ends of justice would be meted out if the petition is allowed. Further, since the matter has already been settled between the petitioners, it is unlikely that the petitioner No. 2 will depose against the petitioner No. 1, and in that event allowing the proceeding

to continue before the learned Trial Court would be an abuse of the process of law.

13. In view of above facts and circumstances, this Court is of the considered view that this is a fit case where the inherent power under Section 482 of the Code of Criminal Procedure, 1973 can be invoked to quash the criminal proceedings pending before the Court of learned Judicial Magistrate First Class, Yupia.

14. Accordingly, the petition stands allowed. The F.I.R. dated 12.09.2023, being Itanagar Woman P.S. Case No. 90/2023, under Sections 354/354-B/326/447/448/506 of the Indian Penal Code, 1860 and the Charge-Sheet No. 154/2023, under Sections 354B/447/506/323 of the Indian Penal Code, 1860 dated 09.12.2023, and the consequential criminal proceedings pending before the Court of learned Judicial Magistrate First Class, Yupia, stands quashed.

15. Criminal petition stands allowed and disposed of.

JUDGE

Comparing Assistant